



South Carolina Mining Council, 2600 Bull Street, Columbia, SC 29201
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**June 26-30, 2017 - Notice of Appeal Hearing Before the
Appellate Committee of the South Carolina Mining Council**

I. Date, Time and Location of Hearing:

June 26, 2017; 9:30 a.m.

**Board Room (#3420) of South Carolina Department of Health and Environmental
Control 2600 Bull Street, Columbia, South Carolina 29201**

II. Members of the Appellate Committee of the South Carolina Mining Council:

William C. Jackson, John J. McFalls and David M. Scaturro

**III. RE: SC Mining Council Docket No. 17-SCMC-1
Received March 9, 2017**

Petitioners: Ridge Protection Coalition
Legal Representation: Robert Guild,

Respondents: Vulcan Construction Materials, Inc.
Legal Representation: John Adams Hodge
John Adams Hodge and Associates, LLC

South Carolina Department of Health and Environmental Control
Legal Representation: Etta R. Williams Linen

Issuance of Mine Operating Permit I-002106 for the Lexington Quarry.

IV. Legal Authority Under Which Hearing is Being Held:

The South Carolina Mining Council ("Mining Council") will hold a hearing on the above referenced matter in accordance with S.C Code Section 48-20-190 and Regulation 89-290.

V. Reference to Particular Sections and Rules Involved

South Carolina Code Sections 1-23-310 et seq., South Carolina Code Sections 48-20-70

et seq. and Regulations 89-10 et seq.

VI. Short Statement Describing Specific Matters Appealed

Petitioner Alleges the Department failed to comply with requirements of Section 48-20-70 by:

- a. Failing to afford all interested parties a reasonable opportunity to submit data, views or arguments regarding the mining activity**
- b. Failing to make available for public review and comment Vulcan Studies, Analyses and Underlying data of potential well drawdown and potential radium and radon gas impacts from mine operations.**
- c. Failing to actually review the studies in (b).**
- d. Failing to appropriately consider and respond to numerous oral and written comments submitted by interested parties during the permit application process.**
- e. Failing to deny or condition the permit to assure the operation complies fully with the requirements and objectives of the Act and Regulations including: standards of air quality, surface water quality, or groundwater quality, undue adverse effects on wildlife and freshwater fisheries, substantial physical hazard to a neighboring dwelling, and a substantial possibility that the operation will result in substantial deposits of sediment in stream beds. Specific violations alleged include:**
 - i. Vulcan has failed to obtain required air quality and water pollution permits and a water quality certification for mine operations.**
 - ii. Evidence of the environmental impacts at other existing Vulcan aggregate quarries and other similar facilities fails to demonstrate that Vulcan has the necessary character, competence, qualifications and experience to operate this proposed mine in compliance with the South Carolina Mining Act and regulations and the proposed mining permit.**
 - iii. Department acknowledges that it has inadequate staff and budget resources to effectively monitor and inspect operations at the proposed Vulcan Lexington Quarry to assure actual and full compliance with the Mine Operating Permit, the South Carolina Mining Act and Regulations.**
 - iv. Blasting setback conditions and pre-blast survey distance in the proposed Permit are inadequate to protect neighboring dwellings, including Ms. Jane Griffin, and other neighboring property interests.**
 - v. Department has failed to require the submission, review, public comment on and approval of an adequate fugitive dust control plan to assure protection of the health of the public and the protection of the public's use and enjoyment of their property from nuisance impacts of quarry operations.**

- vi. Department rejected the comments and recommendations of the Department of Natural Resources with respect to the adequacy of the proposed Vulcan Groundwater Observation Plan and Contingency Plan.
 - vii. Department approved an inadequate condition to protect against adverse impacts of mine operations on neighboring wells depended upon by the community for safe drinking water and for agricultural use and livestock production among other uses.
 - viii. Department has approved inadequate conditions to protect against the adverse impacts of noise from mine operations.
 - ix. Department has approved storm-water pollution control conditions which are inadequate to protect water quality and existing uses of the receiving stream, Little Creek.
 - x. Department has approved inadequate conditions to identify and protect archaeological resources and materials.
 - xi. Department has failed to condition the proposed Mine Permit to restrict surface water and groundwater withdrawals to protect existing flow conditions in Little Creek and wetlands on the mine site.
 - xii. Department has failed to require an adequate groundwater monitoring well plan to effectively characterize hydro-geologic conditions at the mine site and the impacts of mine operations on area groundwater, surface water and neighboring wells.
 - xiii. Department has failed to require as a condition in the proposed Permit a requirement for Vulcan to design, establish, maintain and report readings from a network of particulate air pollution monitoring stations sufficient to record concentrations of regulated particulate pollution leaving the mine site and transported to neighboring properties and residences.
 - xiv. Department has failed to condition the proposed Permit to provide for its expiration and required renewal after five (5) years, subject to a demonstrated history of compliance with the Mining Act, regulation and permit and the imposition of additional permit conditions as may be necessary.
 - xv. Department has failed to condition the proposed Permit to require that Vulcan post an adequate bond or other financial security.
- f. Failing to deny or condition the subject mine operating permit to assure the operation does not unreasonably interfere with the reasonable use and enjoyment of property near the proposed mine site.

A verbatim record of these proceedings will be made. Any party wishing to have a copy will need to order a copy through the Court Reporter.